

EXHIBIT 27

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

ULTIMA SERVICES CORPORATION,
Plaintiff,

v.

Case No.

U.S. DEPARTMENT OF AGRICULTURE,
U.S. SMALL BUSINESS ADMINISTRATION,
SECRETARY OF AGRICULTURE, and
ADMINISTRATOR OF THE SMALL BUSINESS
ADMINISTRATION,

2:20-cv-0041-
DCLD-CRW

Defendants.

VIDEOCONFERENCE DEPOSITION OF
AMY STONEBRAKER

DATE: Wednesday, May 25, 2022

TIME: 9:32 a.m.

LOCATION: Remote Proceeding - DC
Washington, DC 20005

REPORTED BY: Timothy Guevara, Notary Public

JOB NO.: 5242863

A P P E A R A N C E S

ON BEHALF OF PLAINTIFF ULTIMA SERVICES CORPORATION:

MICHAEL E. ROSMAN, ESQUIRE (by videoconference)

MICHELLE SCOTT, ESQUIRE (by videoconference)

Center for Individual Rights

1100 Connecticut Avenue Northwest, Suite 625

Washington, DC 20036

rosman@cir-usa.org

scott@cir-usa.org

(202) 833-8402

ON BEHALF OF DEFENDANTS U.S. DEPARTMENT OF

AGRICULTURE, U.S. SMALL BUSINESS ADMINISTRATION,

SECRETARY OF AGRICULTURE, AND ADMINISTRATOR OF THE

SMALL BUSINESS ADMINISTRATION:

JULIET GRAY, ESQUIRE (by videoconference)

Department of Justice Civil Rights Division

Employment Litigation Section

150 M Street Northeast

Washington, DC 20530

juliet.gray@usdoj.gov

(202) 514-3831

I N D E X

EXAMINATION:	PAGE
By Mr. Rosman	6
By Ms. Gray	99

E X H I B I T S

NO.	DESCRIPTION	PAGE
Exhibit 1	MS1 Status Emails	34
Exhibit 2	MS2 Status Emails	39
Exhibit 3	MS3 NRCS Request Letter, 9/6/18	43
Exhibit 4	MS4 Denison Adverse Impact Letter	
	To USDA, 9/20/18	45
Exhibit 5	Decision Memo	56
Exhibit 6	VA1 PCI Offer Letter	76
Exhibit 7	VA2 PCI Contract (2021)	80
Exhibit 8	VA3 2019 Offer Letter	85
Exhibit 9	VA4 2019 Acceptance Letter	86
Exhibit 10	GA1 Rividium Contract	94

(Exhibits attached.)

1 Q Okay. And do you recall what the subject
2 matter of that meeting was?

3 A If I remember, she was making visits to her
4 staff that were working in the office as a check-in.
5 I think she did that -- made visits to several state
6 offices, maybe during that course of that year. And
7 we, I think at that point, a lot of the IDIQs were, at
8 least my IDIQ, I think, was almost to its ceiling
9 amount. And I think we discussed what would happen
10 for re-competition at that time.

11 Q Do you recall what you said and what she
12 said?

13 A I think she asked me -- if I recall, she
14 asked me what would be done, and I told her they would
15 -- once we received packages or requests to procure
16 new services from the states, then it would be up to
17 the contracting officer to determine method for
18 procurement.

19 Q Did she ever express concern to you during
20 the course of this meeting that contracts were being
21 reserved for the 8(a) Business Development Program?

22 A I think she asked me if they would be posted

1 to FedBizOpps, I think was what it was called at the
2 time, and now it's SAM.gov. And I told her that it
3 would depend on the contracting officer when -- the
4 timing of new requirements were received, and that
5 they would look at the path forward, either posting it
6 to FedBizOpps at that time, using GSA schedule, or
7 looking at 8(a) set-asides for forward procurement.

8 MR. ROSMAN: Okay. So could I ask you
9 to put the first two Mississippi documents in Exhibit
10 Share?

11 A Sure.

12 Q Do you have access to Exhibit Share, Ms.
13 Stonebraker?

14 A I do. Yes. I have it open.

15 Q At the time of your meeting with Ms.
16 Bennett, had a decision been made to reserve a
17 contract to provide administrative services to the
18 Mississippi NRCS office, to the 8(a) program?

19 A Possibly. That could have been the path
20 that the contracting officer had chosen at that time
21 for that requirement. Based on timeframe of when it
22 was needed, that may have been the path selected.

1 Q Okay. And this specific email was referring
2 to a contract for Mississippi?

3 A Yes. It appears that is the case.

4 Q I'm sorry. I couldn't hear your answer.

5 A Yes. It appears that this one is
6 specifically related to Mississippi.

7 Q And do you remember the process by which a
8 contract to provide administrative services to the
9 Mississippi NRCS office was set aside for the 8(a)
10 program at this time?

11 A Well, I believe in the other exhibit,
12 Exhibit 2, we said we were setting aside -- hang on,
13 let me get back to Exhibit 1. The contracting
14 officer, Danny, in Exhibit 1, in Celeste's email to me
15 said that contracting decided to set it aside for sole
16 source, and it appears it was based on timing of when
17 the new award needed to be in place.

18 Q And what do you mean by timing?

19 A Well, it was August of 2018 and the award
20 needed to be in place by 9/30 of 2018. So that was 40
21 days, which would not have been enough time to post
22 the solicitation, receive offers, evaluate offers, and

1 make an award in 40 days.

2 Q Okay.

3 A If I recall, the Mississippi award was over
4 \$250,000, which is our simplified acquisition
5 threshold, and that requires that it be posted for 30
6 days.

7 Q Danny here is Mr. Mandell, Danny Mandell?

8 A Yes. Danny Mandell.

9 Q Okay. And did you have discussions with
10 Mr. Mandell about the process of setting aside this
11 particular requirement for the 8(a) program?

12 A We may have had that discussion as part of
13 his decision process because of the timing of -- of
14 the requirement.

15 Q Did he ever tell you that the SBA was
16 conducting an adverse impact analysis for purposes of
17 this particular contract?

18 A I recall that there was an issue with the
19 8(a) firm that we initially -- or he initially was
20 going to seek approval to use. I don't recall that it
21 was due to any adverse impact.

22 Q Okay.

1 A I don't recall the exact time that we
2 would've pulled the data down.

3 Q But it was shortly before you think the memo
4 was written. Right?

5 A Yes.

6 Q Okay. And does this refresh your
7 recollection as to whether or not you had exercised
8 any options for Region 1?

9 A Yes. I believe at least one of the options
10 should have been exercised at that point. As I said,
11 the Arkansas one was awarded in September of 2017.
12 This memo is dated March 2018. So at least one of the
13 option periods would've been exercised in order to
14 even issue the task order for Arkansas, because it
15 exceeded the initial \$2 million ceiling.

16 Q You may not have heard my question
17 correctly.

18 A Okay.

19 Q I was asking about Region 1 and my question
20 was --

21 A Oh, I'm sorry.

22 Q My question was, does it refresh your

1 recollection as to whether any options had been
2 exercised in Region 1?

3 A It does not appear that we would've
4 exercised an option for Region 1 based on the
5 obligations that were made at that time, which is
6 under the \$2 million.

7 Q Thank you. Okay. Did you have any
8 discussions with anyone in leadership about moving
9 allocated money from one region to another?

10 A No. I would not have had a discussion like
11 that.

12 Q Okay. Do you have a discussion with anyone
13 about that topic?

14 A No.

15 Q Okay. During the course of the operation of
16 the IDIQs, did you have any communications with
17 permanent staff at any NRC offices regarding Ultima
18 Services Corporation?

19 A I'm sure that I did.

20 Q Did you have any communications about the
21 work they were doing, whether it was satisfactory?

22 A Usually, you don't hear a lot unless there's

1 awarding something for administrative support, whether
2 it would've been 8(a) or some other vehicle or path.

3 Q Okay. Well, how about the period from the
4 beginning of the IDIQ contracts to the time that you
5 left for the Department of Energy? Did you ever use
6 the 8(a) program to fulfill a requirement of an NRCS
7 office for administrative support?

8 A I don't recall having CO'd any admin support
9 requirements, new ones, prior to leaving and after the
10 decision memo, period.

11 Q Okay. Did anyone in leadership ever suggest
12 that you should use the 8(a) program to meet or
13 fulfill requirements for administrative support for
14 NRCS offices?

15 A No.

16 Q Okay. Was there any plan that was
17 communicated to you to increase NRCS's use of the 8(a)
18 program?

19 A No.

20 Q Or FPACs?

21 A No. We have small business goals that are
22 provided to us each year by the department, and by

1 department I mean, U.S. Department of Agriculture.
2 There is not a specific category or a goal for 8(a).

3 Q Okay. How about SDBs?

4 A We do have a goal for SDB, but to my
5 knowledge, there's not a specific set-aside for SDB.
6 8(a) falls within the SDB set-aside, but I don't
7 believe there's a specific SDB set aside.

8 Q I may not have understood your answer. You
9 said the 8(a) falls within the SDB --

10 A Well, 8(a) -- the 8(a) small business is
11 considered a disadvantaged small business, but they
12 are -- I don't believe -- the 8(a) has a set-aside. I
13 don't believe there's a actual SDB set-aside that's
14 called out in the FAR. There's one -- like, there's
15 specific set-asides that they specifically address in
16 the FAR, which is like 8(a), woman-owned small
17 business, HUBZone small business, veteran-owned small
18 business. There isn't one section specifically
19 targeting the disadvantaged small business.

20 Q Right. But there are goals for SDBs.
21 Right?

22 A Correct. Yes. Those are set at -- at the

1 USDA level.

2 Q And a contract that is set aside for the
3 8(a) program would count towards the SDB goal. Right?

4 A It would -- it would, yes.

5 Q Because all 8(a) participants are also SDBs.
6 Right?

7 A Correct.

8 Q Okay. Okay.

9 A But a woman-owned small business may also
10 qualify as an SDB and would also count towards SDB
11 goals.

12 Q It might but it wouldn't necessarily.
13 Right?

14 A It may not. I don't know. I'm not that
15 familiar with how the SDB is made up, but it's
16 possible that a company can be multiple -- fall in
17 multiple set-aside categories for their business.

18 Q Right. No, I understand that. I was just
19 trying to understand that all 8(a) participants are
20 also going to --

21 A Yes. That is correct. All 8(a) are
22 considered to be SDB. Yes.

1 Q Okay. So just briefly describe for me your
2 understanding what a contracting officer's discretion
3 is in awarding contracts under the 8(a) program.

4 A Well the contracting officer, based on
5 market research, based on a requirement, based on
6 complexity dollar threshold, they would make a
7 determination on whether or not something would be set
8 aside, and if you would further set aside for specific
9 socioeconomic category, which would be 8(a) or
10 woman-owned or HUBZone.

11 Q Okay. And since your return to the USDA,
12 have contracting officers continued to use the 8(a)
13 program?

14 A Once the requirement is in the 8(a) program,
15 it remains in the 8(a) program until the SBA releases
16 it from the program.

17 Q Okay. To your knowledge, have contracting
18 officers used the 8(a) program for requirements that
19 were not previously in the 8(a) program?

20 A I would imagine they have, but I can't
21 answer that question. I don't know what the others
22 have done.

1 letter, no.

2 Q Okay. Well, we'll look at something else in
3 a few minutes. Let me just ask you a few more
4 questions. You reviewed this document before you
5 signed it?

6 A Yes.

7 Q Okay. And you made sure that it was all
8 accurate?

9 A Yes.

10 Q Okay. So take a look briefly at the
11 paragraph that is numbered 8.

12 A Okay -- okay.

13 Q Okay. So this is referencing another 8(a)
14 contract order. Correct?

15 A That's correct.

16 Q Okay. And this is an allusion to what you
17 were referring to previously, that the contract or the
18 requirement needs to be fulfilled if it was within the
19 8(a) program, unless the SBA releases that
20 requirement?

21 A That's correct.

22 Q Okay. I think you said previously that it

1 was a new requirement. Could you just take a look at
2 paragraph 10?

3 A When I said new, I meant new as in a new
4 year. We were doing a new requirement, but yes, it's
5 a follow-on to a previous award. But in terms of it
6 coming to us, it came to us as a new action. We
7 weren't -- it wasn't an option period to be exercised.
8 It was a new, fresh requirement. It just happens to
9 be a follow-on to something that was already in place,
10 and the customer now says they want or still need
11 support, in terms of general clerk's support.

12 Q Okay. I'm not sure I understood then what
13 you meant by new requirement. Could you explain that,
14 please?

15 A Well, it was new in the year that it was
16 provided to us. So it was new, as in we're starting
17 over new to make an award for admin support for
18 Virginia. But it is, in essence, a follow-on contract
19 to same or similar services that was performed under
20 the contract that is referenced in Number 8 that's
21 expiring, which makes it then still fall within the
22 8(a).

CERTIFICATE OF DEPOSITION OFFICER

I, TIMOTHY GUEVARA, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

TIMOTHY GUEVARA

Notary Public in and for the

District of Columbia

☒ [X] Review of the transcript was requested.

1 Juliet Gray, Esquire
2 Juliet.gray@usdoj.gov

3 May 28, 2022

4 Ultima Services Corporation v. US Department Of Agriculture Et
5 5/25/2022, Amy Stonebraker (#5242863)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 erratas-cs@veritext.com.

16
17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21

22 Yours,
23 Veritext Legal Solutions

24

25

1 Ultima Services Corporation v. US Department Of Agriculture Et
 2 Amy Stonebraker (#5242863)

3 E R R A T A S H E E T

4 PAGE 11 LINE 7 CHANGE _____

5 From: 9 or and 11 To: 9 or an 11

6 REASON typo

7 PAGE 30 LINE 7 CHANGE _____

8 From: beyond 9/30 of 2018 To: 9/30 of 2019

9 REASON misstated ending year in discussion on 2 yr funds

10 PAGE 33 LINE 22 CHANGE _____

11 From: past selected To: path selected

12 REASON misheard word used

13 PAGE 35 LINE 8 CHANGE _____

14 From: Let read that To: Let me read that

15 REASON word left out of statement

16 PAGE 61 LINE 17 CHANGE _____

17 From: NRC To: NRCS

18 REASON Wrong typed acronym

19 PAGE 84 LINE 21 CHANGE _____

20 From: 5611100 To: 561110

21 REASON NAICS code incorrectly typed

22 Page 86 Line 11 CHANGE- From: Temporary health services

To: Temporary help services

23 REASON Incorrect word typed in statement

24 Page 108 Line 13 CHANGE From: once the test orders

To: once the task orders

25 Reason Incorrect word typed

Amy Stonebraker AMY
 STONEBRAKER

Digitally signed by AMY
 STONEBRAKER
 Date: 2022.06.14
 08:06:05 -04'00'

Date: 06/14/2022

1 Ultima Services Corporation v. US Department Of Agriculture Et
 2 Amy Stonebraker (#5242863)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Amy Stonebraker, do hereby declare that I
 5 have read the foregoing transcript, I have made any
 6 corrections, additions, or changes I deemed necessary as
 7 noted above to be appended hereto, and that the same is
 8 a true, correct and complete transcript of the testimony
 9 given by me.

10 **AMY**
 11 **STONEBRAKER** Digitally signed by AMY
 STONEBRAKER
 Date: 2022.06.14 08:06:21 -04'00' 06/14/2022

12 Amy Stonebraker Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS
 15 _____ DAY OF _____, 20____.

16

17

18

19

NOTARY PUBLIC

20

21

22

23

24

25